

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 00-874
ACTION AGAINST)	
)	
Everett School District)	Notice of Administrative
)	Charges
Respondent.)	
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IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.680 states in part:

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. . . . The request is valid for no more than twelve months from the date it is made by the employee.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's

request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

III. **BACKGROUND**

On January 10, 2000, the Public Disclosure Commission received a complaint from Mr. Jami Lund of the Evergreen Freedom Foundation alleging that the Everett School District was in violation of RCW 42.17.680 for failing to maintain for public inspection copies of employees' requests for payroll deductions of contributions to the Washington Education Association's political committee, "Washington Education Association – Political Action Committee" (WEA-PAC). Mr. Lund filed a second complaint on January 24, 2000, alleging that the Everett School District withheld employees' wages for payroll deductions to WEA-PAC without first obtaining written authorization from the employees.

PDC staff reviewed the complaints and the response from the Everett School District. Staff also interviewed the Director of Finance for the District, Byron Viger, and reviewed WEA-PAC deduction authorization forms for the 1999-2000 school year along with the payroll deduction register for the month of March 2000.

IV. **FACTS**

These charges incorporate the Report of Investigation and all exhibits by reference.

**Failure to Maintain Open for Public Inspection Employees' Payroll
Deduction Authorization Forms For Contributions to a Political Committee
(RCW 42.17.680(4))**

Jami Lund of the Evergreen Freedom Foundation visited the Everett School District on October 22, 1999 and asked to see the District employees' requests authorizing payroll deductions for contributions to WEA-PAC. Mr. Lund made his request at the Human Resources office of the District. The individual who helped Mr. Lund had been a District employee for approximately one month. She consulted with another employee and then told Mr. Lund that the authorization forms were not housed at the District, but rather at the Everett Education Association.

Jeffrey S. Riddle, Deputy Superintendent, responded to the complaint by saying that payroll deduction authorization forms are kept in the Payroll Department rather than the Human Resources Department. Mr. Riddle said the Payroll Department had signed authorization forms on file for Everett Education Association members.

Byron Viger, Director of Finance for the District, was interviewed under oath. Mr. Viger admitted that at the time of Mr. Lund's visit the District did not have in their possession, open for public inspection, all of the employees' payroll deduction authorization forms for contributions to WEA-PAC for the past three years. Mr. Viger said the District, at the time of Mr. Lund's visit, maintained in the Payroll Department all payroll authorization forms for contributions to WEA-PAC for the 1997-1998 school year and a portion of the authorization forms for the 1998-1999 school year. However, he said none of the authorization forms for the 1999-2000 school year were in the possession of the District when Mr. Lund visited the District October 22, 1999. At the time of Mr. Lunds's request, there were 16 signed authorization forms for the 1999-2000 school year and none were in the possession of the District. The missing forms for the 1998-1999 and 1999-2000 school years were in the possession of the Everett Education Association. In January 2000, the Everett Education Association gave the Everett School District the missing authorization forms. Mr. Viger said the District withheld WEA related payroll deductions from its employees based on a spreadsheet provided each month by the Everett Education Association. Each payroll period, the District transferred all WEA related deductions requested by the Everett Education Association in a single lump sum payment to the Association.

Failure to Obtain Written Authorization Prior to Withholding a Portion of Employees' Wages for Contributions to a Political Committee (RCW 42.17.680(3))

Mr. Lund alleged that the Everett School District withheld employees' wages through payroll deductions for contributions to WEA-PAC without first obtaining written authorization from the employees. On April 3, 2000, the District produced copies of 22 WEA-PAC payroll deduction authorization forms signed for the 1999-2000 school year. On May 4, 2000, the District produced an additional 46 authorization forms that had been signed during January and February 2000. The District also produced a copy of its March payroll deduction register. A review of the authorization forms and the deduction register showed that the District withheld payroll deductions for WEA-PAC contributions only from those employees who had signed a current year authorization form.

The minimum annual WEA-PAC contribution is \$12.00 per year or \$1.00 per month. The authorization period is from September 1st through August 31st of the following year. For those employees signing an annual authorization before or during September, the WEA-PAC deduction is \$1.00 per month. For those employees signing an authorization after September, the \$12.00 annual contribution is pro-rated over the remaining months through August 31st of the following year.

The Everett School District withheld \$1.00 per month for contributions to WEA-PAC for employees who signed a form on or before September 1, 1999 authorizing that \$12.00 be withheld for the 1999-2000 school year. For employees signing an authorization form after September 1, 1999, the amount withheld per month was increased to insure that \$12.00 would be withheld by August 31, 2000. Although the Everett School District did not maintain copies of all authorization forms as required by law, it only withheld amounts for employees who had signed an authorization form.

V.
CONCLUSION

Staff alleges, based on the facts specified in Section IV, that the Everett School District violated **RCW 42.17.680(4)** by failing to maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts required by RCW 42.17.680 including a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee.

RESPECTFULLY SUBMITTED this _____ day of _____, 2000.

Philip E. Stutzman
Director of Compliance